

**AMENDMENT OFFERED BY MR. POLIS OF
COLORADO
TO THE AMENDMENT IN THE NATURE OF A
SUBSTITUTE TO H.R. 5963**

At the end of the amendment, add the following
(and make such technical and conforming changes as
may be appropriate):

1 **TITLE V—ENDING CORPORAL**
2 **PUNISHMENT IN SCHOOLS**

3 **SEC. 501. SHORT TITLE.**

4 This title may be cited as the “Ending Corporal Pun-
5 ishment in Schools Act of 2016”.

6 **SEC. 502. FINDINGS.**

7 Congress finds the following:

8 (1) Behavioral interventions for children must
9 promote the right of all children to be treated with
10 dignity. All children have the right to be free from
11 any corporal punishment.

12 (2) Safe, effective, evidence-based strategies are
13 available to support children who display challenging
14 behaviors in school settings.

15 (3) School personnel have the right to work in
16 a safe environment and should be provided training

1 and support to prevent injury and trauma to them-
2 selves and others.

3 (4) According to the Department of Education's
4 Technical Assistance Center on School-Wide Positive
5 Behavior Interventions and Support, outcomes asso-
6 ciated with school-wide positive behavior support are:
7 decreased office discipline referrals, increased in-
8 structional time, decreased administrator time spent
9 on discipline issues, efficient and effective use of
10 scarce resources, and increased perception of school
11 safety and sustainability through a team approach.

12 (5) Every 30 seconds during the school year, a
13 public school student is corporally punished.

14 (6) Nineteen States continue to permit corporal
15 punishment in public schools.

16 (7) According to Department of Education sta-
17 tistics, each year in the United States, hundreds of
18 thousands of school children are subjected to cor-
19 poral punishment in public schools. School corporal
20 punishment is usually executed in the form of "pad-
21 dling", or striking students with a wooden paddle on
22 their buttocks or legs, which can result in abrasions,
23 bruising, severe muscle injury, hematomas, whiplash
24 damage, life-threatening hemorrhages, and other

1 medical complications that may require hospitaliza-
2 tion.

3 (8) Gross racial disparity exists in the execution
4 of corporal punishment of public school children, and
5 African-American schoolchildren are disproportion-
6 ately corporally punished. The most recent available
7 statistics show that African-American students make
8 up 18 percent of the national student population,
9 but comprise 40 percent of all students subjected to
10 physical punishment at school. Black children are
11 nearly two-and-a-half times more likely to be cor-
12 porally punished than White children, and nearly
13 eight times more likely to be corporally punished
14 than Hispanic children.

15 **SEC. 503. PURPOSES.**

16 The purposes of this title are to—

17 (1) eliminate the use of corporal punishment in
18 schools;

19 (2) ensure the safety of all students and school
20 personnel in schools and promote a positive school
21 culture and climate; and

22 (3) assist States, local educational agencies,
23 and schools in identifying and implementing effective
24 evidence-based models to prevent and reduce—

25 (A) corporal punishment in schools;

1 (B) aversive behavior interventions that
2 compromise health and safety; and

3 (C) physical, emotional, or psychological
4 abuse.

5 **SEC. 504. PROHIBITION AGAINST CORPORAL PUNISHMENT.**

6 Subpart 4 of part C of the General Education Provi-
7 sions Act (20 U.S.C. 1232f et seq.) is amended by adding
8 at the end the following:

9 **“SEC. 448. PROHIBITION AGAINST CORPORAL PUNISH-**
10 **MENT.**

11 “(a) GENERAL PROHIBITION.—No funds shall be
12 made available under any applicable program to any edu-
13 cational agency or institution, including a local edu-
14 cational agency or State educational agency, that has a
15 policy or practice which allows school personnel to inflict
16 corporal punishment upon a student—

17 “(1) as a form of punishment; or

18 “(2) for the purpose of modifying undesirable
19 behavior.

20 “(b) LOCAL EDUCATIONAL AGENCIES.—

21 “(1) IN GENERAL.—In the case of an applicable
22 program under which a local educational agency may
23 only receive funds through a State educational agen-
24 cy that is prohibited under subsection (a) from re-
25 ceiving funds under any applicable program, a local

1 educational agency that is not prohibited under sub-
2 section (a) from receiving such funds may apply di-
3 rectly to the Secretary to receive funds under the
4 program.

5 “(2) CERTIFICATION.—Each local educational
6 agency applying directly to the Secretary under
7 paragraph (1) shall certify in such application that
8 the agency is not prohibited under subsection (a)
9 from receiving funds under any applicable program.

10 “(c) RULE OF CONSTRUCTION.—Nothing in this sec-
11 tion shall be construed to preclude school personnel from
12 using, within the scope of employment, reasonable re-
13 straint to the lightest possible degree upon a student, if—

14 “(1) the student’s behavior poses an imminent
15 danger of physical injury to the student, school per-
16 sonnel, or others;

17 “(2) less restrictive interventions would be inef-
18 fective in stopping such imminent danger of physical
19 injury; and

20 “(3) the reasonable restraint ends immediately
21 upon the cessation of the conditions described in
22 paragraphs (1) and (2).

23 “(d) DEFINITIONS.—For purposes of this section—

1 “(1) the term ‘corporal punishment’ has the
2 meaning given such term in section 12 of the End-
3 ing Corporal Punishment in Schools Act of 2016;

4 “(2) the term ‘educational agency or institution’
5 means any public or private agency or institution
6 which is the recipient, or serves students who are re-
7 cipients of, funds under any applicable program;

8 “(3) the terms ‘local educational agency’ and
9 ‘State educational agency’ have the meanings given
10 such terms in section 9101 of the Elementary and
11 Secondary Education Act of 1965;

12 “(4) the term ‘school personnel’ has the mean-
13 ing given such term in section 12 of the Ending Cor-
14 poral Punishment in Schools Act of 2016; and

15 “(5) the term ‘student’ includes any person who
16 is in attendance at an educational agency or institu-
17 tion.”.

18 **SEC. 505. STATE PLAN AND ENFORCEMENT.**

19 (a) STATE PLAN.—Not later than 18 months after
20 the date of enactment of this Act and every third year
21 thereafter, each State educational agency shall submit to
22 the Secretary a State plan that provides—

23 (1) assurances to the Secretary that the State
24 has in effect policies and procedures that eliminate
25 the use of corporal punishment in schools;

1 (2) a description of the State's policies and pro-
2 cedures; and

3 (3) a description of the State plans to ensure
4 school personnel and parents, including private
5 school personnel and parents, are aware of the
6 State's policies and procedures.

7 (b) ENFORCEMENT.—

8 (1) IN GENERAL.—

9 (A) USE OF REMEDIES.—If a State edu-
10 cational agency fails to comply with subsection
11 (a), the Secretary shall—

12 (i) withhold, in whole or in part, fur-
13 ther payments under an applicable pro-
14 gram (as such term is defined in section
15 400(c) of the General Education Provi-
16 sions Act (20 U.S.C. 1221)) in accordance
17 with section 455 of such Act (20 U.S.C.
18 1234d);

19 (ii) enter into a compliance agreement
20 in accordance with section 457 of the Gen-
21 eral Education Provisions Act (20 U.S.C.
22 1234f); or

23 (iii) issue a complaint to compel com-
24 pliance of the State educational agency
25 through a cease and desist order, in the

1 same manner the Secretary is authorized
2 to take such action under section 456 of
3 the General Education Provisions Act (20
4 U.S.C. 1234e).

5 (B) CESSATION OF WITHHOLDING OF
6 FUNDS.—Whenever the Secretary determines
7 (whether by certification or other appropriate
8 evidence) that a State educational agency that
9 is subject to the withholding of payments under
10 subparagraph (A)(i) has cured the failure pro-
11 viding the basis for the withholding of pay-
12 ments, the Secretary shall cease the withholding
13 of payments with respect to the State edu-
14 cational agency under such subparagraph.

15 (2) RULE OF CONSTRUCTION.—Nothing in this
16 subsection shall be construed to limit the Secretary’s
17 authority under the General Education Provisions
18 Act (20 U.S.C. 1221 et seq.).

19 (c) RULE OF CONSTRUCTION.—Nothing in this sec-
20 tion shall be construed to preclude school personnel from
21 using, within the scope of employment, reasonable re-
22 straint to the lightest possible degree upon a student, if—

23 (1) the student’s behavior poses an imminent
24 danger of physical injury to the student, school per-
25 sonnel, or others;

1 (2) less restrictive interventions would be inef-
2 fective in stopping such imminent danger of physical
3 injury; and

4 (3) the reasonable restraint ends immediately
5 upon the cessation of the conditions described in
6 paragraphs (1) and (2).

7 **SEC. 506. GRANT AUTHORITY.**

8 (a) IN GENERAL.—From the amount appropriated
9 under section 11, the Secretary may award grants to State
10 educational agencies to assist the agencies in improving
11 school climate and culture by implementing school-wide
12 positive behavior support approaches.

13 (b) DURATION OF GRANT.—A grant under this sec-
14 tion shall be awarded to a State educational agency for
15 a 3-year period.

16 (c) APPLICATION.—Each State educational agency
17 desiring a grant under this section shall submit an appli-
18 cation to the Secretary at such time, in such manner, and
19 accompanied by such information as the Secretary may
20 require, including information on how the State edu-
21 cational agency—

22 (1) will develop State training programs on
23 school-wide positive behavior support approaches,
24 such as training programs developed with the assist-
25 ance of the Secretary (acting through the Office of

1 Special Education Programs Technical Assistance
2 Center on Positive Behavioral Interventions and
3 Supports of the Department of Education); and

4 (2) will target resources to schools and local
5 educational agencies in need of assistance related to
6 improving school culture and climate through posi-
7 tive behavior supports.

8 (d) AUTHORITY TO MAKE SUBGRANTS.—

9 (1) IN GENERAL.—A State educational agency
10 receiving a grant under this section may use such
11 grant funds to award subgrants, on a competitive
12 basis, to local educational agencies.

13 (2) APPLICATION.—A local educational agency
14 desiring to receive a subgrant under this section
15 shall submit an application to the applicable State
16 educational agency at such time, in such manner,
17 and containing such information as the State edu-
18 cational agency may require.

19 (e) PRIVATE SCHOOL PARTICIPATION.—

20 (1) IN GENERAL.—A local educational agency
21 receiving subgrant funds under this section shall,
22 after timely and meaningful consultation with appro-
23 priate private school officials, ensure that private
24 school personnel can participate, on an equitable

1 basis, in activities supported by funds under this
2 section.

3 (2) PUBLIC CONTROL OF FUNDS.—The control
4 of funds provided under this section, and title to ma-
5 terials, equipment, and property purchased with
6 such funds, shall be in a public agency, and a public
7 agency shall administer such funds, materials, equip-
8 ment, and property.

9 (f) REQUIRED ACTIVITIES.—A State educational
10 agency receiving a grant, or a local educational agency re-
11 ceiving a subgrant, under this section shall use such grant
12 or subgrant funds to carry out the following:

13 (1) Developing and implementing high-quality
14 professional development and training programs,
15 such as training programs developed with the assist-
16 ance of the Secretary (acting through the Office of
17 Special Education Programs Technical Assistance
18 Center on Positive Behavioral Interventions and
19 Supports of the Department of Education), to imple-
20 ment evidence-based systematic approaches to
21 school-wide positive behavior supports, including im-
22 proving coaching, facilitation, and training capacity
23 for principals and other administrators, teachers,
24 specialized instructional support personnel, and
25 other staff.

1 (2) Providing technical assistance to develop
2 and implement evidence-based systematic approaches
3 to school-wide positive behavior supports, including
4 technical assistance for data-driven decisionmaking
5 related to behavioral supports and interventions in
6 the classroom and throughout common areas.

7 (3) Researching, evaluating, and disseminating
8 high-quality evidence-based programs and activities
9 that implement school-wide positive behavior sup-
10 ports with fidelity.

11 (4) Supporting other local positive behavior
12 support implementation activities consistent with
13 this subsection, including outreach to families and
14 community agencies and providers, such as mental
15 health authorities.

16 (g) EVALUATION AND REPORT.—Each State edu-
17 cational agency receiving a grant under this section shall,
18 at the end of the 3-year grant period for such grant, pre-
19 pare and submit to the Secretary, a report that—

20 (1) evaluates the State’s progress toward devel-
21 oping and implementing evidence-based systematic
22 approaches to school-wide positive behavior supports;
23 and

24 (2) includes such information as the Secretary
25 may require.

1 (h) DEPARTMENT OF THE INTERIOR.—From the
2 amount appropriated under section 11, the Secretary may
3 allocate funds to the Secretary of the Interior for activities
4 under this section with respect to schools operated or
5 funded by the Department of the Interior, under such
6 terms as the Secretary of Education may prescribe.

7 **SEC. 507. NATIONAL ASSESSMENT.**

8 (a) NATIONAL ASSESSMENT.—The Secretary shall
9 carry out a national assessment to—

10 (1) determine compliance with the requirements
11 of this title; and

12 (2) identify best practices with respect to pro-
13 fessional development and training programs carried
14 out under section 6, which shall include identifying
15 evidence-based school personnel training models with
16 demonstrated success (including models that empha-
17 size positive behavior supports and de-escalation
18 techniques over physical intervention).

19 (b) REPORT.—The Secretary shall submit to the
20 Committee on Education and the Workforce of the House
21 of Representatives and the Committee on Health, Edu-
22 cation, Labor, and Pensions of the Senate—

23 (1) an interim report that summarizes the pre-
24 liminary findings of the assessment described in sub-

1 section (a) not later than 3 years after the date of
2 enactment of this Act; and

3 (2) a final report of the findings of the assess-
4 ment not later than 5 years after the date of the en-
5 actment of this Act.

6 **SEC. 508. PROTECTION AND ADVOCACY SYSTEMS.**

7 Protection and Advocacy Systems shall have the au-
8 thority provided under section 143 of the Developmental
9 Disabilities Assistance and Bill of Rights Act of 2000 (42
10 U.S.C. 15043) to investigate, monitor, and enforce protec-
11 tions provided for students under this title and the amend-
12 ments made by this title.

13 **SEC. 509. LIMITATION OF AUTHORITY.**

14 (a) IN GENERAL.—Nothing in this title shall be con-
15 strued to restrict or limit, or allow the Secretary to restrict
16 or limit, any other rights or remedies otherwise available
17 to students or parents under Federal, State, or local law
18 or regulation.

19 (b) APPLICABILITY.—

20 (1) PRIVATE SCHOOLS.—Nothing in this title
21 shall be construed to affect any private school that
22 does not receive, or does not serve students who re-
23 ceive, support in any form from any program sup-
24 ported, in whole or in part, with funds appropriated
25 to the Department of Education.

1 (2) HOME SCHOOLS.—Nothing in this title shall
2 be construed to—

3 (A) affect a home school, whether or not a
4 home school is treated as a private school or
5 home school under State law; or

6 (B) consider parents who are schooling a
7 child at home as school personnel.

8 **SEC. 510. RULE OF CONSTRUCTION ON DATA COLLECTION.**

9 Nothing in this title shall be construed to affect the
10 collection of information or data with respect to corporal
11 punishment authorized under the statutes and regulations
12 implementing title VI of the Civil Rights Act of 1964 (42
13 U.S.C. 2000d et seq.), title IX of the Education Amend-
14 ments of 1972 (20 U.S.C. 1681 et seq.), section 504 of
15 the Rehabilitation Act of 1973 (29 U.S.C. 794 et seq.),
16 or the Department of Education Organization Act (20
17 U.S.C. 3401 et seq.).

18 **SEC. 511. AUTHORIZATION OF APPROPRIATIONS.**

19 There are authorized to be appropriated such sums
20 as may be necessary to carry out this title for fiscal year
21 2018 and each of the 4 succeeding fiscal years.

22 **SEC. 512. DEFINITIONS.**

23 In this title:

24 (1) CORPORAL PUNISHMENT.—The term “cor-
25 poral punishment” means paddling, spanking, or

1 other forms of physical punishment, however light,
2 imposed upon a student.

3 (2) EDUCATIONAL SERVICE AGENCY.—The
4 term “educational service agency” has the meaning
5 given such term in section 9101(17) of the Elemen-
6 tary and Secondary Education Act of 1965 (20
7 U.S.C. 7801(17)).

8 (3) ELEMENTARY SCHOOL.—The term “elemen-
9 tary school” has the meaning given the term in sec-
10 tion 9101(18) of the Elementary and Secondary
11 Education Act of 1965 (20 U.S.C. 7801(18)).

12 (4) LOCAL EDUCATIONAL AGENCY.—The term
13 “local educational agency” has the meaning given
14 the term in section 9101(26) of the Elementary and
15 Secondary Education Act of 1965 (20 U.S.C.
16 7801(26)).

17 (5) PARENT.—The term “parent” has the
18 meaning given the term in section 9101(31) of the
19 Elementary and Secondary Education Act of 1965
20 (20 U.S.C. 7801(31)).

21 (6) POSITIVE BEHAVIOR SUPPORTS.—The term
22 “positive behavior supports” means a systematic ap-
23 proach to embed evidence-based practices and data-
24 driven decisionmaking to improve school climate and
25 culture, including a range of systemic and individ-

1 ualized strategies to reinforce desired behaviors and
2 diminish reoccurrence of problem behaviors, in order
3 to achieve improved academic and social outcomes
4 and increase learning for all students, including
5 those with the most complex and intensive behav-
6 ioral needs.

7 (7) PROTECTION AND ADVOCACY SYSTEM.—The
8 term “protection and advocacy system” means a
9 protection and advocacy system established under
10 section 143 of the Developmental Disabilities Assist-
11 ance and Bill of Rights Act of 2000 (42 U.S.C.
12 15043).

13 (8) SCHOOL.—The term “school” means an en-
14 tity—

15 (A) that—

16 (i) is a public or private—

17 (I) day or residential elementary
18 school or secondary school; or

19 (II) early childhood, elementary
20 school, or secondary school program
21 that is under the jurisdiction of a
22 school, local educational agency, edu-
23 cational service agency, or other edu-
24 cational institution or program; and

1 (ii) receives, or serves students who
2 receive, support in any form from any pro-
3 gram supported, in whole or in part, with
4 funds appropriated to the Department of
5 Education; or

6 (B) that is a school funded or operated by
7 the Department of the Interior.

8 (9) SCHOOL PERSONNEL.—The term “school
9 personnel” has the meaning—

10 (A) given the term in section 4151(10) of
11 the Elementary and Secondary Education Act
12 of 1965 (20 U.S.C. 7161(10)); or

13 (B) given the term “school resource offi-
14 cer” in section 4151(11) of the Elementary and
15 Secondary Education Act of 1965 (20 U.S.C.
16 7161(11)).

17 (10) SPECIALIZED INSTRUCTIONAL SUPPORT
18 PERSONNEL.—The term “specialized instructional
19 support personnel” means school counselors, school
20 social workers, school nurses, school psychologists,
21 and other qualified professional personnel involved in
22 providing assessment, diagnosis, counseling, edu-
23 cational, health, therapeutic, and other necessary
24 corrective or supportive services.

1 (11) SECONDARY SCHOOL.—The term “sec-
2 ondary school” has the meaning given the term in
3 section 9101(38) of the Elementary and Secondary
4 Education Act of 1965 (20 U.S.C. 7801(38)).

5 (12) SECRETARY.—The term “Secretary”
6 means the Secretary of Education.

7 (13) STATE.—The term “State” has the mean-
8 ing given the term in section 9101 of the Elemen-
9 tary and Secondary Education Act of 1965 (20
10 U.S.C. 7801).

11 (14) STATE EDUCATIONAL AGENCY.—The term
12 “State educational agency” has the meaning given
13 the term in section 9101(41) of the Elementary and
14 Secondary Education Act of 1965 (20 U.S.C.
15 7801(41)).

16 (15) STUDENT.—The term “student” means a
17 student enrolled in a school defined in paragraph
18 (8).

19 **SEC. 513. PRESUMPTION OF CONGRESS RELATING TO COM-**
20 **PETITIVE PROCEDURES.**

21 (a) PRESUMPTION.—It is the presumption of Con-
22 gress that grants awarded under this title will be awarded
23 using competitive procedures based on merit.

24 (b) REPORT TO CONGRESS.—If grants are awarded
25 under this title using procedures other than competitive

1 procedures, the Secretary shall submit to Congress a re-
2 port explaining why competitive procedures were not used.

3 **SEC. 514. PROHIBITION ON EARMARKS.**

4 None of the funds appropriated to carry out this title
5 may be used for a congressional earmark as defined in
6 clause 9(e) of rule XXI of the Rules of the House of Rep-
7 resentatives of the 114th Congress.

